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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,068	06/24/2003	Romeo Capodiferro	69001-5	8585
7590	06/17/2004		EXAMINER	
Gary M. Gron, Esquire Cummins Inc. Mail Code 60701 Box 3005 Columbus, IN 47202			CASTRO, ARNOLD	
			ART UNIT	PAPER NUMBER
			3747	
			DATE MAILED: 06/17/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/603,068	CAPODIFERRO
	<b>Examiner</b>	<b>Art Unit</b>
	Arnold Castro	3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 5 and 6 is/are allowed.  
 6) Claim(s) 1 and 2 is/are rejected.  
 7) Claim(s) 3 and 4 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/28/2003</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron et al. (US/4,894,016) in view of R.T. Wheeler (US/3,321,985).

Cameron discloses method comprising the steps of: providing a first hole in the flywheel, providing a second hole in a stationary part of the engine to line up accurately with the hole in the flywheel once during each crankshaft revolution and inserting a locking pin into the aligned holes to lock the crankshaft in a predetermined angular position. However, does not detail how engine is turned over.

R. T. Wheeler discloses a method of manually cranking and engine for the purpose of setting engine timing. (col. 1, lines 7-16) The steps comprising removing the starter motor, mounting on the engine using the same fixings as the starter motor a manual cranking device having a cog that meshes with the teeth on the flywheel and that is secured to a shaft rotatable by means of a cranking handle, and rotating the flywheel by means of the cranking handle to position the flywheel. (col. 1, lines 39-43) However, Wheeler does not expressly disclose pinning the flywheel.

At the time of the invention it would have been obvious to one of ordinary skill to used the engine rotating invention of R.T. Wheeler too rotate the engine of Cameron. Motivation is stated in (col 1. lines 7-16) of Wheeler.

### ***Allowable Subject Matter***

3. Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 5 and 6 are allowed.

***Conclusion***

5. The prior art made of record and not relied upon but considered pertinent to applicant's disclosure is listed in attached PTO-892. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnold Castro whose telephone number is (703) 305-0039. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
MAHMOUD GIMIE  
PRIMARY PATENT EXAMINER  
ART UNIT 3747

  
Arnold Castro  
Examiner  
Art Unit 3747

AC